

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS,  
EASTERN DIVISION**

THREE ZERO THREE CAPITAL	)	
PARTNERS, LLC, on behalf of itself and	)	
303 Energy Trading Alliance, LLC	)	
	)	
Plaintiff	)	
	)	No. 08 C 248
v.	)	
	)	Judge Blanche M. Manning
WILLIAM JAMISON, JR., STEPHEN	)	Magistrate Judge Arlander Keys
HARPER, JEFFREY ONG and EVERGREEN	)	
ENERGY CAPITAL, LLC	)	
	)	
Defendants.	)	

**DEFENDANTS WILLIAM JAMISON, JR.'S, STEPHEN HARPER'S  
AND JEFFREY ONG'S MOTION TO DISMISS COUNTS I AND II OF PLAINTIFFS'  
VERIFIED COMPLAINT AT LAW**

Defendants William Jamison, Jr., Stephen Harper and Jeffrey Ong (collectively, the "individual defendants"), by their undersigned attorneys, moves this Court, pursuant to Fed. R. Civ. P. 12(b)(2) and (6), to dismiss with prejudice the Verified Complaint at Law ("Complaint") against the individual defendants. In support of this motion, the individual defendants state:

1. Jamison and Harper are citizens of the State of Washington, while Ong is a citizen of the State of Texas. At all times relevant to this litigation, all three of the individual defendants were residents of the State of Washington. Moreover, their contacts with the State of Illinois are few.

2. Accordingly, this Court does not have personal jurisdiction over the individual defendants. Therefore, Count I of the Complaint should be dismissed with prejudice pursuant to Fed. R. Civ. P. 12(b)(2).

3. Plaintiffs Three Zero Three Capital Partners, LLC ("Three Zero Three") and 303 Trading Alliance, LLC (the "Fund") allege that the individual defendants breached a guaranty

that they allegedly made to repay any potential claw-back obligation that Evergreen Energy Capital, LLC (“Evergreen”) had under the Trading Advisory Agreement that Evergreen and Three Zero Three entered into in July 2006.

4. Plaintiffs, however, attach no writing to the Complaint as evidence of this guaranty.

5. Pursuant to the statute of frauds in Illinois, the promise to pay the debt of another must be in writing.

6. Accordingly, Plaintiffs fail to state a claim for breach of contract against the individuals. Therefore, Count I of the Complaint should be dismissed with prejudice pursuant to Fed. R. Civ. P. 12(b)(6).

7. Plaintiffs further allege that the individual defendants were unjustly enriched in the amount of \$160,723.08 when they failed to repay Evergreen’s alleged claw-back obligation under the Trading Advisory Agreement.

8. This claim, however, is based solely off of the same unenforceable oral guaranty that forms the basis for Plaintiffs’ breach of contract claim in Count I. Accordingly, the Court should dismiss with prejudice Count II of the Complaint pursuant to Fed. R. Civ. P. 12(b)(6).

For these reasons, as well as those stated in the supporting memorandum of law, the individual defendants respectfully request that this Court dismiss the Complaint against them with prejudice for pursuant to Fed. R. Civ. P. 12(b)(2) and (6).

Dated: January 18, 2008

Respectfully submitted,

WILLIAM JAMISON, JR., STEPHEN  
HARPER, JEFFREY ONG

/s/ Amy J. Carletti  
One of their attorneys

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**CERTIFICATE OF SERVICE**

I, Amy J. Carletti, certify that service of the above instrument was accomplished pursuant to ECF upon counsel of record for plaintiffs, who is a Filing User according to the Court's General Order On Electronic Filing and by first-class U.S. Mail, postage prepaid upon:

Richard T. Reibman  
Schwartz Cooper Chartered  
180 N. LaSalle Street, Suite 2700  
Chicago, Illinois 60601

on this 18th day of January, 2008.

\_\_\_\_\_  
/s/ Amy J. Carletti

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